

## **REMARKS**

### **I. INTRODUCTION**

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

### **II. STATUS OF THE CLAIMS**

By the present amendment, claim 1 is amended. Claims 1 and 3-6 are pending with claim 1 being the sole independent claim. It is respectfully submitted that no new matter is added herewith.

### **III. SUMMARY OF THE OFFICE ACTION**

In the Office Action, the drawings are objected for failing to show all the features of the invention specified in the claims. Claims 1 and 3-6 are rejected under 35 U.S.C. § 112, second paragraph; and claims 1 and 3-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kobayashi et al.* (US Patent No. 4,633,613) in view of *Bickerstaff* (U.S. Patent No. 4,589,227).

### **IV. OBJECTION OF THE DRAWINGS**

In the Office Action, the drawings are objected to for failing to show the feature of the curved trajectory including several curves with corresponding changes in curvature without points of inflection, as recited in claim 1. In response, that feature has been deleted from claim 1. Accordingly, Applicant requests reconsideration and withdrawal of the objection of the drawings.

**V. REJECTION OF THE CLAIMS**

**A. Rejection of Claims 1-3 under 35 U.S.C. § 112, second paragraph**

In the Office Action, claims 1 and 3-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action indicates that the term “angle of departure” is unclear. Applicant respectfully traverses.

As described in Applicant’s disclosure and shown in the drawings, the angle of departure is the angle  $\alpha$  (see Figure 1) formed between a vertical axis and another axis defined by the top curve of the rail 7 (at the upper swivel axle 8). Note that the angle of departure changes depending on the radius of curvature R of the rail 7, and in this case, may be between  $+45^\circ$  and  $-45^\circ$ . Thus, Applicant submits that “angle of departure” is clear and definite. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 3-6 under 35 U.S.C. § 112, second paragraph.

**B. Rejection of Claims 1 and 3-6 under 35 U.S.C. § 103(a)**

In the Office Action, claims 1 and 3-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kobayashi* in view of *Bickerstaff*. Applicant respectfully traverses.

*Kobayashi* discloses an operating device comprising a slider 58 joined to a window which slides along a guide rail 54 having a curved trajectory. However, *Kobayashi* does not teach that the angle of departure must be between  $-45^\circ$  and  $+45^\circ$ . Moreover, the *Kobayashi* device requires a second guide rail that must be used to provide a pivot in the window pane 18 during its moving. Thus, the *Kobayashi* device cannot achieve its function of moving the window pane 18 using only a single guide rail, unlike the claimed invention.

In the claimed invention, where one single rail is used, a reduction in manufacturing cost and reduction in noise and vibration are obtained. Moreover, *Kobayashi* also does not teach the curvature radius of the claimed invention which defines the trajectory that the window follows.

*Bickerstaff* does not cure the deficiencies of *Kobayashi*. As seen in Fig. 3 of *Bickerstaff*, the adjusting bottom means for positioning the device of *Bickerstaff* consists of two guide slots 32 placed in a glide plate 30 which slides using means 25 and 26 along a rigid guide rail 16. In this sense, the glass is fixed by using an assembly, as shown in Fig. 5, where a washer 42 is used. The washer 42 has a thickened portion 46 which seats on a reduced portion 38 of a bolt 36 which at its radially outer portion provides a cylindrical guide surface 8 that slides within a slot 32 of the guide plate 30 so that lateral adjustment of the crystal is achieved when the window is moved vertically. However, the position of the guide rail 16 and the guide plate 12 are fixed.

The means for adjusting the position in the claimed invention is different in *Bickerstaff*. In the claimed invention, the means for adjusting is the same operating device, such as device 1, and includes two lower transversal screws 9 and 10, whose function is to laterally adjust the position of the whole device to the door of vehicle.

Applicant submits that lateral positioning of the device of the claimed invention as whole is accomplished when the device as a whole is adjusted, including motor, rail and other items, while in *Bickerstaff*, only the lateral position of the glass is accomplished when it moves up and down.

Consequently, Applicant respectfully submits that a prima facie case of obviousness has not been established and requests reconsideration and withdrawal of the rejection of independent claim 1 under 35 U.S.C. § 103(a). Moreover, dependent claims 3-6 are allowable for the same reasons as discussed above. Additionally, these claims recite other features not found in *Kobayashi* and *Bickerstaff*.


For example, both *Kobayashi* and *Bickerstaff* fail to teach an upper pivoting axle used on the rail, as in dependent claim 3. This upper pivoting axle acts as a fixing and allows the rail to tilt slightly to adjust it in the vehicle's door. Such a feature is not found in either *Kobayashi* or in *Bickerstaff*.

## VI. CONCLUSION

In view of the foregoing discussion and present amendments, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (001058-00036). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicants hereby petition under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,

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